



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
EMD / CWB

12053PGY.03c

DATE: December 18, 2003
NPDES PERMIT NO.: HI 0021815

**PERMIT RATIONALE: APPLICATION FOR NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM (NPDES) PERMIT TO DISCHARGE
TO THE WATERS OF THE UNITED STATES**

PERMITTEE: WB KD ACQUISITION, LLC

FACILITY: WB KD ACQUISITION, LLC

FACILITY ADDRESS

The 87-Mile Marker
Queen Kaahumanu Highway
Kaupulehu- Kona, Island of Hawaii

PERMITTEE MAILING ADDRESS

WB KD Acquisition, LLC
345 California Street, Suite 3450
San Francisco, California 94104
Contact: Mr. Randy Mori
Project Manager
Telephone No.: (808) 325-2711
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PERMIT STATUS

On June 6, 2003, the Permittee's duly authorized representative, Belt Collins Hawaii Ltd., submitted an application, dated June 4, 2003, for an NPDES Permit to discharge storm water runoff associated with construction activity from the WB KD Acquisition, LLC project ("Project"), to the Pacific Ocean, Class AA, Marine Water. The WB KD Acquisition, LLC via their authorized representative has since submitted additional information to complete the application. The proposed permit would become effective upon issuance and expire at midnight, five (5) years from the date of issuance.

The Director of Health (Director) proposes to issue a permit to discharge to the waters of the State and has included in the proposed draft permit those terms and conditions which the Director determined are necessary to carry out the provisions of the Federal Water Pollution Control Act (PL 92-500), Federal Clean Water Act of 1977 (PL 95-217) and Chapter 342D, Hawaii Revised Statutes.

SCOPE OF THE CONSTRUCTION ACTIVITY AND LOCATION OF THE PROJECT

The Project proposes to develop a resort property in Kaupulehu-Kona, Island of Hawaii. The development is for an 877 acre project site consisting of single-family home lots, a Beach Club, and Interpretive Center, a Golf Course and Clubhouse and associated infrastructure (road, water, sewer, drainage, electrical, telephone and cable television/data); and 28 acres off-site to bring the infrastructure improvements to the project site.

The Project is currently in the master planning stage; details of construction activities will be provided as it becomes available and submitted to the Department of Health (DOH) for review. The development will occur over two increments with multiple phases. The initial construction activity involves support work for geotechnical evaluation of the site. Storm water run-off associated with construction activities from the project will discharge to lava sumps, undisturbed lava areas, or seepage drains where it will percolate to the ground, or discharge to the receiving state waters after implementation of Best Management Practices (BMPs). The limited quantities of non-storm water generated from construction activities at designated areas will infiltrate within undisturbed lava areas or drainage structures, evaporate, or enter a sanitary sewer system and will not discharge to State waters. The Permittee will be required to submit site-specific information for each future phase at least 30 days before the start of each future phase of construction activities.

RECEIVING WATER CLASSIFICATION

The storm water runoff from the Project may discharge to the Pacific Ocean along the coastline as noted in the application. The receiving waters is classified by the DOH as Class AA, Marine Water. The objective of Class AA waters is to remain in their natural pristine state as nearly as possible with an absolute minimum of pollution or alteration of water quality from any human-caused sources or actions. To the extent practicable, the wilderness character of these areas shall be protected.

The uses to be protected in this class of waters are oceanographic research, the support and propagation of shellfish and other marine life, conservation of coral reefs and wilderness areas, compatible recreation, and aesthetic enjoyment.

These waters shall not act as receiving waters for any discharge which has not received the best degree of treatment or control compatible with the criteria established for this class.

OCEAN DISCHARGE CRITERIA

The Director has considered the Ocean Discharge Criteria, established pursuant to Section 403(c) of the Clean Water Act for the discharge of pollutants into the territorial sea, the waters of the contiguous zone, or the oceans. The EPA has promulgated regulations for Ocean Discharge Criteria in 40 Code of Federal Regulations Part 125, Subpart M. Based on current information, the Director has determined that the discharge will not cause degradation to the marine environment.

DESCRIPTION OF THE PROPOSED DISCHARGE

Storm water runoff from the project site may discharge to the Pacific Ocean along the coastline between the discharge points noted in the application. Pollutants will be removed from the storm water runoff prior to entering the receiving waters through the use of BMPs including, but not limited to, silt fence, lava sumps, seepage drains.

PERMIT CONDITIONS

The Director has considered the permit conditions to discharge storm water runoff associated with construction activity, established pursuant to the Federal Water Pollution Control Act, Federal Clean Water Act, and the Hawaii Revised Statutes. The Director has determined that the discharge will not cause degradation to the receiving inland water environment after implementation of BMPs. Therefore, based on current information, the Director proposes to issue a permit.

PROPOSED DETERMINATIONS

Based on the activities proposed, nutrient and toxic parameters are not required. Any non-storm water generated from the construction activities will be contained on-site and will not be discharged into State waters.

The proposed requirements are determined to be applicable to the permit conditions to prevent degradation of the receiving water. These requirements are incorporated into the draft permit as follows:

A. General Requirements

1. The Permittee shall comply with all materials submitted in and with the application, dated June 4, 2003, and additional submittals, dated October 3, 2003, December 5, 2003.

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This provision will ensure that the Permittee shall implement the Erosion Control Plan and the BMPs which were submitted with the permit application.

2. The Permittee shall retain a copy of the application, including other related materials, and this permit at the job site or at a nearby field office.

This provision will ensure that the permit is readily available for reference and presentation upon request by the DOH's representative when he/she is at the job site to follow up on the projects's compliance or non-compliance (violation) of the permits' terms and conditions.

3. The Permittee shall ensure that anyone working under this permit complies with the terms and conditions of this permit.
4. The Permittee shall not cause or contribute to a violation of the basic water quality criteria as specified in Hawaii Administrative Rules (HAR), Chapter 11-54, Section 11-54-04.
5. The Permittee shall take all reasonable steps to minimize or prevent any discharge or disposal of sediments, oil, fuel, pesticides or any other pollutants which will cause or contribute to a violation of this permit or applicable law. Sediments or any other pollutants generated by the construction shall be disposed of in a manner which prevents its entrance into or pollution of any surface or subsurface waters.
6. The Permittee shall design, operate, implement, and maintain the construction site BMPs plan to ensure that storm water discharges associated with construction activities will not cause or contribute to a violation of applicable state water quality standards.
7. The Permittee shall implement the construction site BMPs plan as often as needed to improve the quality of storm water discharges or when instructed by the Director of Health (Director).
8. The Permittee shall immediately stop, reduce, or modify construction, or implement new or revised best management practices as needed to stop or prevent a violation of the basic water quality criteria as specified in HAR, Chapter 11-54, Section 11-54-04.
9. The Permittee shall timely inspect the receiving state waters, storm water runoff and control measures and best management practices to detect violations of and

conditions which may cause violations of the basic water quality criteria as specified in HAR, Chapter 11-54, Section 11-54-04. (e.g., the permittee shall look at storm water discharges and receiving state waters for turbidity, color, floating oil and grease, floating debris and scum, materials that will settle, substances that will produce taste in the water or detectable off-flavor in fish, and inspect for items that may be toxic or harmful to human or other life.)

This requirement is to assure that the implemented BMPs are effective and the discharge effluent is in compliance with the basic State water quality standards.

10. The Permittee shall review and update the effectiveness and adequacy of the implemented site-specific BMPs plan(s) and sediment and erosion control plan(s) as often as necessary. Any changes(s) to the site-specific BMPs plans and/or sediment and erosion control plans or correction(s) to information already on file with the Department of Health (DOH) shall be submitted to the Clean Water Branch (CWB) as such change(s) or correction(s) arises.

The BMPs installed at the beginning of a construction activity may not be adequate for the later part of the construction activity. Therefore, the BMPs need to be reviewed and updated as the construction proceeds. Inadequate BMPs shall be replaced with appropriate BMPs that are suitable to the current conditions. The DOH shall be kept updated about the new BMPs being used at the site.

11. The Permittee shall submit signed copies of all reports required by this permit to the Director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

12. The Permittee shall include the following certification statement and signature on each submittal in accordance with HAR, Chapter 11-55, Section 11-55-07(b):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly

responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."

13. The Permittee shall include the NPDES permit number (HI 0021815) on each submittal. Failure to provide the assigned NPDES permit number for this facility on future correspondence or submittals may be a basis for delay of the processing of the document(s).

B. Reporting Requirements

1. The Permittee shall submit the following site-specific information to the CWB **at least 30 days before the start of each phase of future construction activities:**
 - a. Any general contractor's information which was not identified in the application. The information must include the general contractor's legal name, address (location where papers can be hand-delivered), contact person and title, telephone and fax numbers;
 - b. Construction site-specific (BMPs) plan containing, at a minimum, the following information:
 - (1) Site characterization report which describes at a minimum, the history of the land use at the proposed construction site, the potential pollution source(s) in the history and from the operation of the proposed construction activity, the potential pollutant(s) present at the existing site, and any proposed corrective measures;
 - (2) Description of the nature of the construction activity, including a proposed timetable for major activities with the date when the contractor will begin the site disturbance;
 - (3) Site-specific map showing, at a minimum: approximate slopes anticipated after major grading activities; areas of soil disturbance; drainage patterns; areas used for the storage of soils or wastes; the location where stabilization practices are expected to occur; the location of all structural controls; the areas where vegetative practices are to be implemented; the location of impervious structures (including buildings, roads, parking lots, etc.) after

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construction is completed; wetlands and other state water(s); and the boundaries of 100-year flood plains, if determined;

- (4) Total area of the site and the area of the site that is expected to be disturbed, including clearing, grading, excavation, staging or any combination of the above;
- (5) Quantity of storm water runoff, with supporting calculations;
- (6) Flow chart or line drawing showing the general route taken by storm water through the project site.
- (7) Description of the nature of the fill material to be used and existing data describing the soil or the quality of any discharge from the site;
- (8) Site-specific plan to minimize erosion of soil and discharge of other pollutants into state waters, including removal procedures for the construction site best management practices;
- (9) Descriptions of construction management techniques, vegetation controls, and structural controls;
- (10) The identification of all potential pollutants that will be generated by the proposed construction activities and the proposed control measures or treatment, as applicable. These pollutants may include, but are not limited to: construction debris, removed vegetation; discharges associated with the operation and maintenance of the equipment, such as oil, fuel and hydraulic fluid leakage; soil erosion from the disturbed areas and stockpile areas; any non-storm water, location of oil, fuel or any hazardous material storage site(s) and containment structures;
- (11) If applicable, a county-approved erosion and sediment control plan as appropriate for the activity and a schedule for implementing each control; and
- (12) Descriptions of measures that will minimize the discharge of pollutants via storm water discharges after construction operations have been finished. Examples include: open, vegetated swales and natural depressions; structures for storm water retention, detention,

or recycle; velocity dissipation devices to be placed at the outfalls of detention structures or along with the length of outfall channels; and other appropriate measures.

The Permittee is allowed to submit the above information at least 30 days before the start of construction activities. The DOH includes this information as a permit condition.

2. The Permittee shall complete and submit the enclosed Solid Waste Disclosure Form for Construction Sites to the Office of Solid Waste Management as specified on the form.
3. The Permittee shall immediately notify the Director of the incident and identify the pollutant(s) source(s) and the proposed and implemented control or mitigative measures as required in section 16 of DOH "Standard NPDES Permit Conditions," dated December 31, 2002.
4. The Permittee shall submit any changes to information on file with the CWB as soon as changes arise. The Permittee shall properly address all related concerns and/or comments to the CWB's satisfaction.
5. The Permittee shall notify the CWB upon termination of the discharge activities pursuant to HAR, Chapter 11-55, Section 11-55-18.

C. Special Requirements

1. The Permittee shall comply with all the specifications submitted in and with the application, dated June 4, 2003 and site-specific BMPs plans to be submitted at least 30 days before start of each phase of future construction.
2. The Permittee shall limit the "disturbance of land", as referenced in HAR, Appendix C, to a maximum of 20 acres per drainage area. The area of land disturbance may be reduced by the Director for water pollution control purposes. On a case-by-case situation, the Director may allow additional area to be disturbed provided that the Permittee can demonstrate to the Director's satisfaction that the additional disturbance area will not cause or contribute to a violation of the basic water quality criteria as specified in HAR, Chapter 11-54.
3. The Permittee shall remove excavated materials as soon as possible or at the end of each work day. The excavated materials shall be disposed of to a State and/or County approved landfill site.

4. The Permittee shall not discharge the waters accumulated within the construction yard/staging area and storage area.
5. The Permittee shall contain on-site any non-storm water generated from the construction activities and prevent discharges into State waters.
6. The Permittee shall refrain from performing any work during heavy rainstorms.
7. The following special conditions apply to all land disturbance work conducted under this permit:
 - a. Construction Management Techniques
 - (1) Clearing and grubbing shall be held to the minimum necessary for grading and equipment operation.
 - (2) Construction shall be sequenced to minimize the exposure time of the cleared surface area.
 - (3) Construction shall be staged or phased for large projects. Areas of one phase shall be stabilized before another phase is initiated. Stabilization shall be accomplished by temporarily or permanently protecting the disturbed soil surface from rainfall impacts and runoff.
 - (4) Erosion and sediment control measures shall be in place and functional before earth moving operations begin. These measures shall be properly constructed and maintained throughout the construction period.
 - (5) All control measures shall be checked and repaired as necessary, for example, weekly in dry periods and within twenty-four hours after any rainfall of 0.5 inches or greater within a 24-hour period. During prolonged rainfall, daily checking is necessary. The permittee shall maintain records of checks and repairs.
 - (6) The permittee shall maintain records of the duration and estimated volume of storm water discharge(s).
 - (7) A specific individual shall be designated to be responsible for erosion and sediment controls on each project site.

b. Vegetation Controls

- (1) Pre-construction vegetative ground cover shall not be destroyed, removed, or disturbed more than twenty calendar days prior to land disturbance.
- (2) Temporary soil stabilization with appropriate vegetation shall be applied on areas that will remain unfinished for more than thirty calendar days.
- (3) Permanent soil stabilization with perennial vegetation or pavement shall be applied as soon as practical after final grading. Irrigation and maintenance of the perennial vegetation shall be provided for thirty calendar days or until the vegetation takes root, whichever is shorter.

c. Structural Controls

- (1) Storm water flowing toward the construction area shall be diverted by using appropriate control measures, as practical.
- (2) Erosion control measures shall be designed according to the size of disturbed or drainage areas to detain runoff and trap sediment.
- (3) Water must be discharged in a manner that the discharge shall not cause or contribute to a violation of the basic water quality criteria as specified in HAR, Chapter 11-54, Section 11-54-04.